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STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

The Department of Transportation of the State of Illinois,  
for and in behalf of the People of the State of Illinois,

Petitioner,

vs.

BNSF Railway Company, f/k/a Burlington Northern  
Santa Fe Railway Company,

Respondent.

Petition for approval of the taking or damaging of certain  
properties in McDonough County, Illinois by exercising  
the right of eminent domain. Parcel Nos. 409U018PE  
and 409U018TE.

T05-0046

TRANSPORTATION DIV

2005 AUG 24 P 2:44

ILLINOIS COMMERCE  
COMMISSION

**PETITIONER'S MOTION FOR LEAVE TO FILE**  
**AMENDED PETITION FOR APPROVAL TO TAKE PROPERTY**

NOW COMES THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF  
ILLINOIS, Petitioner, by LISA MADIGAN, ATTORNEY GENERAL and STANLEY L.  
MORRIS, Special Assistant Attorney General, and for its Motion for Leave to File an  
Amended Petition for Approval to Take Property, states:

1. This motion is filed pursuant to Section 200.140 of the Rules of Practice of the  
Illinois Commerce Commission.

2. On August 15, 2005, the Petitioner filed its Petition for Approval to Take  
Property and inadvertently represented that FAP Route 315 was a "non-freeway" route. In  
fact, FAP Route 315 has been designated as a freeway.

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3. The Petition filed herein further inadvertently provided an improper location of the subject parcel.

4. Granting Petitioner's Motion for Leave to File an Amended Petition will not prejudice the rights of any party.

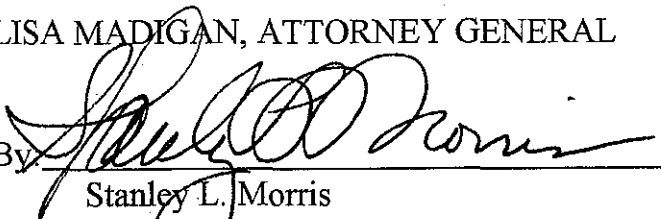
5. A copy of the Amended Petition for Approval to Take Property which Petitioner seeks to file is attached hereto as Exhibit "A" and fully incorporated by this reference.

WHEREFORE, Petitioner prays that its motion be granted.

THE DEPARTMENT OF TRANSPORTATION,  
STATE OF ILLINOIS, Petitioner

LISA MADIGAN, ATTORNEY GENERAL

By

  
Stanley L. Morris  
Special Assistant Attorney General

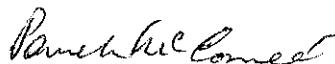
Stanley L. Morris  
Special Assistant Attorney General  
205 South Fifth Street, Suite 900  
Springfield, IL 62701  
Telephone: (217) 753-1133

**PROOF OF SERVICE**

The undersigned certifies that on August 24, 2005, a copy of the foregoing document was deposited in the U.S. Mail, with postage prepaid, at Springfield, Illinois, plainly addressed to:

Burlington Northern & Santa Fe Railway Company  
c/o Stanbach Company  
Attn: Yvonne Worsham  
3017 Lou Menk Drive, Suite 100  
Ft. Worth, TX 76131

BNSF Railway Company,  
f/k/a Burlington Northern Santa Fe Railway Company  
c/o Michael Sazdanoff, Registered Agent  
Kenneth J. Wysoglad & Associates  
118 South Clinton Street, Suite 700  
Chicago, IL 60661

  
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STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION



The Department of Transportation of the State of Illinois, :  
for and in behalf of the People of the State of Illinois, :

Petitioner, :

vs. :

T05-0046

BNSF Railway Company, f/k/a Burlington Northern :  
Santa Fe Railway Company, :

Respondent. :

Petition for approval of the taking or damaging of certain :  
properties in McDonough County, Illinois by exercising :  
the right of eminent domain. Parcel Nos. 409U018PE :  
and 409U018TE. :

**AMENDED PETITION FOR APPROVAL TO TAKE PROPERTY**

NOW COMES THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF  
ILLINOIS, Petitioner, by LISA MADIGAN, ATTORNEY GENERAL and STANLEY L.  
MORRIS, Special Assistant Attorney General, having received leave to file and for its  
Amended Petition for Approval to Take Property states:

1. Petitioner has engaged in the construction, operation and maintenance of FAP  
Route 315 (Ill. Route 336), a State highway under the control and jurisdiction of Petitioner,  
in McDonough County, Illinois, under and by virtue of the Illinois Highway Code (605 ILCS  
5/2-101 through 5/2-220 and 5/4-101 through 5/4-511). The lands and premises hereinafter  
described and legally described as set out in Exhibits "A" and "B" attached hereto and  
incorporated by this reference, are required for Petitioner's construction of FAP Route 315,  
Section 55-2, McDonough County, Illinois (hereafter the "Project").

2. Respondent, BNSF RAILWAY COMPANY, f/k/a BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY ("BNSF"), is a rail carrier as defined in the Illinois Commercial Transportation Law (625 ILCS 5/18c-7101 et seq.), is engaged as a common carrier by railroad within Illinois and is subject to the jurisdiction of the Illinois Commerce Commission.

3. The land, rights, and other property hereinafter described are private property and the Respondent appears to own, have an interest in, or claim to have some interest therein.

4. The Project is a public work, is for public use and constitutes a public purpose, in McDonough County, Illinois; it is in the public convenience and necessity that the Petitioner have and acquire a permanent easement in Parcel No. 409U018PE, more particularly described in Exhibit "A" attached hereto, and a temporary easement in Parcel No. 409U018TE, more particularly described in Exhibit "B" attached hereto, for the lesser of three years from the date Petitioner takes possession of said property or until the completion of construction. Said parcel is located along U.S. Route 136 approximately 3/4 mile west of Tennessee, Illinois.

5. Pursuant to Article VIII of the Illinois Highway Code (605 ILCS 5/8-10125/8-109), Petitioner did on September 4, 2004, designate and establish FAP Route 315 (Illinois Route 336) beginning at the intersection of U.S. Route 136 and East 225th Street approximately 1-1/2 miles west of Tennessee, Illinois, and extending easterly and northerly to a point on U.S. Route 136 approximately 1-3/4 miles west of Macomb, Illinois, as a freeway and recorded said designation on August 23, 2005; the parcels herein described abut

upon and are adjacent to said FAP Route 315 so declared to be a freeway.

6. The compensation to be paid by the Petitioner to the Respondent for these parcels or the interest therein or the form of conveyance cannot be agreed upon between the Petitioner and the Respondent and the Petitioner, therefore, is authorized, subject to the initial approval of the Illinois Commerce Commission, to proceed to acquire said lands, rights or other property through the exercise of the right of eminent domain under the Eminent Domain Laws of Illinois.

WHEREFORE, Petitioner prays the Illinois Commerce Commission enter an Order authorizing Petitioner to proceed with an action in eminent domain to acquire from Respondent, BNSF, a permanent easement in Parcel No. 409U018PE more particularly described in attached Exhibit "A", and a temporary easement in Parcel No. 409U018TE, more particularly described in attached Exhibit "B", for the lesser of three years from the date Petitioner takes possession of said property or until completion of construction, all in accordance with Article VII (735 ILCS 5/7-101 through 5/7-129) of the Illinois Code of Civil Procedure.

THE DEPARTMENT OF TRANSPORTATION,  
STATE OF ILLINOIS, Petitioner

LISA MADIGAN, ATTORNEY GENERAL

By: 

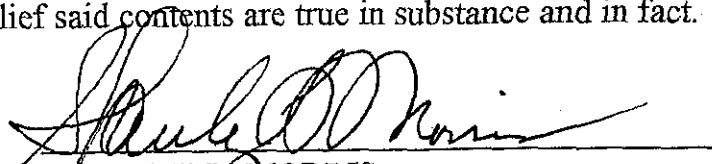
Stanley L. Morris

Special Assistant Attorney General


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STATE OF ILLINOIS                    )  
  )  
COUNTY OF SANGAMON            )       SS

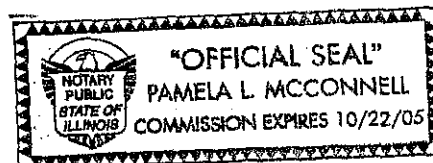
I, STANLEY L. MORRIS, of lawful age and being first duly sworn, depose and say that I am a Special Assistant Attorney General for the State of Illinois, that I have read the above and foregoing Amended Petition by me subscribed, have knowledge of the contents thereof and that on information and belief said contents are true in substance and in fact.

  
STANLEY L. MORRIS  
Special Assistant Attorney General

Subscribed and sworn to before me, a Notary Public, this 24<sup>th</sup> day of August, 2005.

  
Notary Public

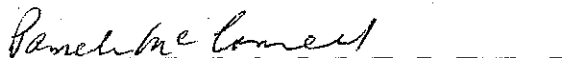
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c/o Stanbach Company  
Attn: Yvonne Worsham  
3017 Lou Menk Drive, Suite 100  
Ft. Worth, TX 76131

BNSF Railway Company,  
f/k/a Burlington Northern Santa Fe Railway Company  
c/o Michael Sazdanoff, Registered Agent.  
Kenneth J. Wysoglad & Associates  
118 South Clinton Street, Suite 700  
Chicago, IL 60661



A part of the Northeast Quarter and Southeast Quarter of Section 21, Township 5 North, Range 4 West of the Fourth Principal Meridian, McDonough County, Illinois, described as follows:

Commencing at the southeast corner of the Northeast Quarter of said Section 21; thence North 0 degrees 46 minutes 19 seconds East along the east line of said Northeast Quarter, 185.84 feet to the southeasterly right-of-way line of the Burlington Northern and Santa Fe Railroad, being the Point of Beginning, said point also being 85.61 normally distant northerly from the proposed centerline of FAP Route 315; thence South 57 degrees 37 minutes 34 seconds West along said southeasterly right-of-way line, 658.73 feet to a point being 285.58 feet normally distant southerly from said centerline; thence North 32 degrees 23 minutes 28 seconds West, 100.00 feet to the said northwesterly right-of-way line of said Burlington Northern and Santa Fe Railroad, said point being 202.98 feet normally distant southerly from said centerline; thence North 57 degrees 37 minutes 34 seconds East on said northwesterly right-of-way line, 724.85 feet to a point being 205.46 feet normally distant northerly from said centerline; thence South 74 degrees 21 minutes 33 seconds East, 134.53 feet to said southeasterly right-of-way line, said point being 173.56 feet normally distant northerly from said Centerline; thence South 57 degrees 37 minutes 34 seconds West along said southeasterly right-of-way line, 156.08 feet to the Point of Beginning, containing 76,984 square feet, or 1.767 acres, more or less.

409U018PER1





A part of Lots 3, 4 and 6 in the Northwest Quarter of Section 22, Township 5 North, Range 4 West of the Fourth Principal Meridian, McDonough County, Illinois, described as follows:

Commencing at the Southwest Corner of the Northwest Quarter of said Section 22; thence North 0 degrees 46 minutes 19 seconds East, 305.28 feet to the Northwestern Right-of-Way line of the Burlington Northern and Santa Fe Railroad; thence North 57 degrees 37 minutes 34 seconds East along said Northwestern Right-of-Way Line, 624.59 feet to the Point of Beginning, said point being 135.82 feet normally distant Southerly from the proposed Centerline of Relocated IL Route 136 at Station 25+47.10; thence North 57 degrees 37 minutes 34 seconds East along the northerly right-of-way line of said Burlington and Northern Railroad, 888.26 feet to a point being 60.95 feet normally distant Southerly from said Centerline Station 33+99.01; thence South 32 degrees 22 minutes 30 seconds East, 10.00 feet to a point being 70.95 feet normally distant Southerly from said Centerline Station 33+98.86; thence South 57 degrees 37 minutes 34 seconds West, 888.26 feet to a point being 145.29 feet normally distant Southerly from said Centerline Station 25+50.00; thence North 32 degrees 22 minutes 31 seconds West, 10.00 feet to the Point of Beginning, containing 8,883 square feet, or 0.204 acre, more or less.

It is not the intent of this instrument to encumber any building or structure lying within this easement area.

The said Real Estate being also shown by the plat hereto attached and made a part hereof.

409U018TER1

